

COUNTY COURT OF THE STATE OF NEW YORK
WESTCHESTER COUNTY: CRIMINAL TERM

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THE PEOPLE OF THE STATE OF NEW YORK

- against -

MARC FISHMAN,

RECEIVED
JUL 08 2022
TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER
Defendant.

Case No.: 6293-2018

NOTICE OF APPEAL WITH
INFORMATIONAL STATEMENT

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COUNSELORS:

PLEASE TAKE NOTICE THAT the Defendant-Appellant, MARC FISHMAN, hereby appeals to the Appellate Division, Second Department, from the Order of Protection of the Honorable David S. Zuckerman, dated June 9, 2022 and entered on June 9, 2022, that issued a final order of protection in the absence of a conviction, the absence of defendant or his counsel's presence, and without any legal authority.

The defendant-appellant appeals from each and every portion of the Order of Protection of the Honorable David S. Zuckerman, dated June 9, 2022, together with such errors that may be apparent upon a review of the Record. A copy of the Order is annexed hereto.

LAW OFFICE OF CANER DEMIRAYAK, ESQ., P.C.

Dated: Brooklyn, New York
July 5, 2022


_____/s/_____
Caner Demirayak, Esq.
300 Cadman Plaza West
One Pierrepont Plaza, 12th Floor
Brooklyn, New York 11201
718-344-6048
Fax: 646-679-2527
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TO: Westchester County District Attorney
111 Dr. Martin Luther King Jr., Blvd.
White Plains, New York 10601

Supreme Court of the State of New York

Appellate Division : Judicial Department

Informational Statement - Criminal Cases

Use a separate copy of this form for each judgment, sentence or order granted or denied. Multiple convictions under different accusatory instruments, judgments were rendered in the same court on the same day, require completion of separate copies of this form. Please type or print and answer

all questions.

Attach a copy of the notice of appeal. If the appeal is from an order, attach a copy. If the appeal is from a judgment or sentence, attach a copy of the commitment order or an extract of the clerk's minutes.

Case Title:

The People of the State of New York,
vs.

Marc Fishman

For Appellate Division Use Only

Case No:

File Opened:

Appellate Division Status: Place a ✓ in the appropriate box to indicate the Appellate Division status of the parties.

Plaintiff
Defendant

☐ Appellant
☒ Appellant

☒ Respondent
☐ Respondent

Type of Crime: If this is an appeal from a judgment of conviction, a sentence or an order granting or denying post-conviction relief, place a ✓ mark in up to five of the following boxes to indicate the type of crime or crimes of which the defendant was convicted. If the conviction was for more than five crimes, check the five most serious charges. Check the ☐ to indicate that the conviction was for the substantive crime and check the ☐ to indicate that the conviction was for an

attempt to commit that crime. In the event that the precise crime of which the defendant was convicted does not appear on the following list, check the box comparable to the article of the Penal Law in which the substantive crime is set forth. If this is an appeal by the People from an interlocutory order, check up to five boxes to indicate the crimes of which the defendant has been charged.

☐ = Substantive Crime

☐ = Attempt to Commit Crime

- ☐ ☐ 1 Arson
- ☐ ☐ 2 Assault & Related Offenses
- ☐ ☐ 3 Bribery, Not Public Servant & Related Offenses
- ☐ ☐ 4 Bribery, Public Servants & Related Offenses
- ☐ ☐ 5 Burglary & Related Offenses
- ☐ ☐ 6 Children & Incompetents, Offenses Affecting
- ☐ ☐ 7 Computer Offenses
- ☐ ☐ 8 Conspiracy
- ☐ ☐ 9 Controlled Substances, Possession
- ☐ ☐ 10 Controlled Substances, Sale
- ☐ ☐ 11 Controlled Substances, Other
- ☐ ☐ 12 Criminal Facilitation
- ☐ ☐ 13 Criminal Mischief & Related Offenses
- ☐ ☐ 14 Criminal Possession of Stolen Property
- ☐ ☐ 15 Criminal Solicitation
- ☐ ☐ 16 Enterprise Corruption
- ☐ ☐ 17 Escape & Offenses Relating to Custody

- ☐ ☐ 18 False Written Statements - Offenses Involving
- ☐ ☐ 19 Firearms & Dangerous Weapons, Possession
- ☐ ☐ 20 Firearms & Dangerous Weapons, Use
- ☐ ☐ 21 Firearms & Dangerous Weapons, Other
- ☐ ☐ 22 Forgery & Related Offenses
- ☐ ☐ 23 Frauds on Creditors
- ☐ ☐ 24 Frauds, Other
- ☐ ☐ 25 Gambling Offenses
- ☐ ☐ 26 Homicide, Abortion
- ☐ ☐ 27 Homicide, Criminally Negligent
- ☐ ☐ 28 Homicide, Manslaughter
- ☐ ☐ 29 Homicide, Murder
- ☐ ☐ 30 Homicide, Vehicular Manslaughter
- ☐ ☐ 31 Insurance Fraud
- ☐ ☐ 32 Kidnapping, Coercion & Related Offenses
- ☐ ☐ 33 Larceny
- ☐ ☐ 34 Marijuana Offenses

- ☐ ☐ 35 Marital Relationship, Offenses Affecting
- ☐ ☐ 36 Motor Vehicle, Operating Under Influence
- ☐ ☐ 37 Motor Vehicle, Other
- ☐ ☐ 38 Obscenity & Related Offenses
- ☒ ☐ 39 Offenses Relating to Judicial & other Proceedings
- ☐ ☐ 40 Official Misconduct, Obstruction of Public Servants
- ☐ ☐ 41 Perjury & Related Offenses
- ☐ ☐ 42 Privacy, Offenses Against
- ☐ ☐ 43 Prostitution Offenses
- ☐ ☐ 44 Public Order, Offenses Against
- ☐ ☐ 45 Public Sensibilities, Offenses Against
- ☐ ☐ 46 Robbery
- ☐ ☐ 47 Sex Offenses, Rape
- ☐ ☐ 48 Sex Offenses, Sexual Abuse
- ☐ ☐ 49 Sex Offenses, Sodomy
- ☐ ☐ 50 Theft Offenses, Other
- ☐ ☐ 51 Other

Original Court Information (Use another Form B for additional appeals):

Appeal From (Check one only): ☐ Judgment ☒ Order ☐ Sentence ☐ Amended Judgment ☐ Amended Order ☐ Amended Sentence
☐ Resettled Order ☐ Decision ☐ Other (specify):

Date or Rendered:

6/9/22

Indictment or Superior Court Information No.: *6293-2018*

Court:

County Court

County:

Westchester

Stage: ☒ Interlocutory ☐ Final ☐ Post-Final

Judge (name in full): *David S Zuckerman*

Conviction: ☐ Plea of Guilty ☐ Jury Verdict ☐ Nonjury Trial ☒ Not Applicable

Codefendants: Were there any codefendants under this accusatory instrument? ☐ Yes ☒ No
Names of codefendants convicted under this accusatory instrument:

Defendant Information (Please supply any available information):

NYSIS No.:

Prisoner Identification No.:

FBI No.:

Address:

At a Term of the Supreme Court, County of Westchester, at the Courthouse, 111 Dr. Martin Luther King, Jr. Boulevard, White Plains, State of New York.

ORDER OF PROTECTION
Family Offenses - C.P.L. 530.12

☐ Youthful Offender (check if applicable)
Part: OZ
Docket No. 16-06263
Charges: Criminal Contempt 2*

HONORABLE DAVID S. ZUCKERMAN
ACTING SUPREME COURT JUSTICE

The People of the State of New York

(Check box): ☐ Ex Parte
☒ Defendant Present in Court

MARC FISHMAN,

Defendant.

Date of Birth: 08/21/1972

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE IS SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

☒ ORDER OF PROTECTION - Whereas defendant has been convicted of: CRIMINAL CONTEMPT IN THE SECOND DEGREE.

And the Court having made a determination in accordance with section 530.12 of the Criminal Procedure Law, IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:
[Check applicable paragraphs and subparagraphs]:

- [01] ☒ Stay away from [A] ☒ [name(s) of protected person(s) or witness(es)]: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008) and/or from the
[B] ☒ home of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
[C] ☒ school of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
[D] ☒ business of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
[E] ☒ place of employment of JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
[F] ☒ other JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
----- ☒ except for contact, communication or access permitted by an existing or subsequent court order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding.
- [14] ☒ Refrain from communication or any other contact, directly or indirectly through third parties, by mail, telephone, e-mail, voice mail or other electronic or any other means with: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
----- ☒ except for contact, communication or access permitted by an existing or subsequent court order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding pertaining to child-in-common).
- [17] ☒ Refrain from remotely controlling, monitoring or otherwise interfering with any electronic device or other object affecting the home, vehicle or property of: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008).
- [02] ☒ Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against: JENNIFER SOLOMON (DOB: 12/24/1974), JONAH FISHMAN (DOB: 11/20/2005), JOANNA FISHMAN (DOB: 02/09/2004), AIDEN FISHMAN (DOB: 07/19/2008) AND SKYE FISHMAN (DOB: 07/19/2008);
- [15] ☒ Refrain from intentionally injuring or killing without justification the following companion animal(s) pet(s) and, if available, name: ANY AND ALL;

[specify individual]: _____ to enter the residence at [specify]: _____ during [specify]
[specify time]: _____ with [specify law enforcement agency, if any]: _____ to remove personal
[specify items not in issue in litigation [specify item]: _____;

Refrain from [indicate acts]: _____ that create an
unreasonable risk to the health, safety, or welfare of [specify child(ren), family or household member]: _____

[] Permit [specify individual(s)]: _____ entitled by a court order or
separation or other written agreement, to visit with [specify child(ren)]: _____ during the following periods of time
[specify]: _____, under the following terms and conditions [specify]: _____

[12] [X] Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including,
but not limited to, the following ANY and do not obtain any further guns or other firearms. Such surrender shall take place
immediately, but in no event later than [specify date/time]: IMMEDIATELY AND NO LATER THAN FOUR HOURS
AFTER THE ISSUANCE OF THIS ORDER TO THE ARRESTING AGENCY OR THE WESTCHESTER COUNTY
POLICE. Note: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit
Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252.

[] Promptly return or transfer the following identification documents [specify]: _____ to the party
protected by this Order NOT LATER THAN [specify date]: _____ in the following manner [specify manner or
mode of return or transfer]: _____
[Check box(es) if applicable]: [] Such documents shall be made available for use as evidence in this judicial proceeding.
[] (Jointly owned documents or documents in both parties' names only): the following
document(s) may be used as necessary for legitimate use by the defendant [specify]: _____

[99] [X] Specify other conditions defendant must observe for the purposes of protection: NO CONTACT DIRECTLY,
INDIRECTLY OR THROUGH THIRD PARTIES.

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a
firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby [13A] [] suspended or [13B] [X] revoked (note: final order
only), and/or [13C] [X] the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all
applicable boxes).

IT IS FURTHER ORDERED that this order of protection shall remain in force until and including April 29, 2023, less the
defendant's jail time credit, which is to be computed by the applicable department of correction.

DATED: JUNE 9, 2022


HONORABLE DAVID S. ZUCKERMAN
ACTING JUSTICE OF THE SUPREME COURT

[] Order personally served on Defendant in Court _____
(Defendant's signature)

[X] Order to be served by other means [specify]: via defendant's email address at rentdriver@gmail.com and/or at counsel
[] Warrant issued for Defendant.
[] ADDITIONAL SERVICE INFORMATION: [specify]: Caner Demiryak at caner@canerlawoffice.co

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer
acting pursuant to his or her special duties shall authorize and in some situations may require, such officer to arrest a defendant
who is alleged to have violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order be honored and enforced by state and tribal courts, including courts of a state, the District of
Columbia, a commonwealth, territory or possession of the United States, if the person against whom the order is sought is an
intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in
accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty); and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

COUNTY COURT OF THE STATE OF NEW YORK
WESTCHESTER COUNTY: CRIMINAL TERM

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Case No.: 6293-2018

- against -

MARC FISHMAN,

AFFIRMATION OF SERVICE

Defendant.

-----X
CANER DEMIRAYAK, ESQ., an attorney duly admitted to practice in the Courts of the State of New York hereby affirms pursuant to CPLR 2106 that he is not a party to this matter and is above the age of 18 and that on July 5, 2022 he served the within NOTICE OF APPEAL AND INFORMATIONAL STATEMENT upon the following persons by U.S. Mail and e-mail:

Westchester County District Attorney
111 Dr. Martin Luther King Jr., Blvd.
White Plains, New York 10601

LAW OFFICE OF CANER DEMIRAYAK, ESQ., P.C.

Dated: Brooklyn, New York
July 5, 2022


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